



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MOP - 175929

PRELIMINARY RECITALS

Pursuant to a petition filed August 2, 2016, under Wis. Stat., §49.45(5), to review a decision by the Jefferson County Dept. of Human Services to recover Medical Assistance (MA), a hearing was held on September 20, 2016, by telephone.

The issue for determination is whether the agency correctly determined an MA overpayment.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Jefferson County Dept. of Human Services
874 Collins Rd.
Jefferson, WI 53549

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Jefferson County.
2. Petitioner applied for BadgerCare Plus (BC+) MA in September, 2015. At the time he reported working 15-20 hours per week at \$9 per hour. After verifying income the agency granted BC+.
3. By a notice dated October 7, 2016 the agency informed petitioner of his eligibility. The notice stated that if income rose above \$980.83 in a month petitioner should report the increase.

4. In May, 2016 the county received a state wage report showing that petitioner's income for the fourth quarter, 2015 averaged out to higher than \$980 per month from three different employers. The worker requested verification of petitioner's income back to that date but received information from only one of the employers.
5. Because insufficient income verification was received the county determined that petitioner was overpaid MA for every month of the period December 1, 2015 through April 30, 2016. All MA payments made on petitioner's behalf were considered overpaid. The overpayment ended April 30 because petitioner's BC+ ended effective May 1, 2016.
6. By a notice dated June 29, 2016, the county informed petitioner that he was overpaid \$1,407.26 from December 1, 2015 through April 30, 2016, claim no. [REDACTED]

DISCUSSION

MA overpayment recovery is authorized by Wis. Stat., §49.497(1):

(a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s. 49.665 if the incorrect payment results from any of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665.
2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.
3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

See also the department's BC+ Handbook, Appendix 28.2. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

An overpayment is determined as follows: "If the case was ineligible for BC+, recover the amount of medical claims paid by the state and/or the capitation rate. Use the ForwardHealth interChange data from the Total Benefits Paid by Medicaid Report(s). Deduct any amount paid in premiums (for each month in which an overpayment occurred) from the overpayment amount." Handbook, App. 28.4.2.

Based on the average of the fourth quarter wage match, petitioner's income rose above the limit in October, 2015. Thus he would have lost eligibility for BC+ effective December 1, 2015, making all MA payments after that overpaid.

Petitioner testified that Ms. [REDACTED] told him, at the initial appointment, that if his income rose the agency would notify him that BC+ would end. She told him that the agency would be tracking his income quarterly. Both of those statements are accurate, but petitioner misunderstood the agency's oversight. It is true that the agency would notify petitioner that BC+ would end when his income rose, but the agency first has to be informed of the increase in income. It also is true that the agency tracks income quarterly,

but those quarterly wage matches are usually several months behind. The county received the fourth quarter, 2015 wage match in late April, 2016.

Petitioner still had the responsibility to inform the county worker when his income rose above the limit. The October 7, 2015 notice stated on page 3: "If your household's total monthly income (before taxes) goes over \$980.83, you must report it by the 10th day of the next month." Thus if income rose above \$980.83 in October, it would be reported by November 10, and the BC+ would close December 1.

An overpayment need not be caused by deliberate fraud. It can be caused by simple client error, and I believe that is what happened here. Petitioner misunderstood his need to report increased income. Furthermore, telling the worker that income likely will increase is not sufficient; the report must be made after it actually increases.

All that said, the county determined that petitioner was over the income limit for all five months December, 2015 through April, 2016 because petitioner did not verify his income completely. If petitioner is able to provide his actual income from his three employers for the months of October, 2015 through April, 2015, Ms. [REDACTED] could review the overpayment again to determine if there were any months in which petitioner was not overpaid. At this point, however, I must find that the overpayment claim was determined correctly.

CONCLUSIONS OF LAW

The county correctly determined a BC+ overpayment because petitioner mistakenly did not report when his income increased above the reporting level.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

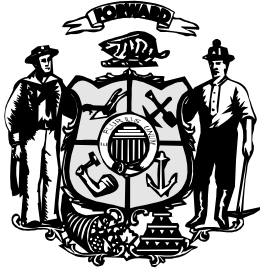
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 28th day of September, 2016

\s _____
Brian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 28, 2016.

Jefferson County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability